

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **VICE CHAIRMAN RIC HOLDEN**, on March 22, 2001 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Arnie Mohl (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 620, 3/21/2001

Executive Action: HB 620
HB 319
HB 403

HEARING ON HB 620

Sponsor: REP. RON DEVLIN, HD 3, TERRY

Proponents: Jim Jacobson, MT Veterans' Affairs
C. Hal Manson, American Legion
Herb Ballou, MOPH
Gen. Emil Eschenberg
John Denherder, self
Mike Hankins, Associated Vietnam Veterans of
America
Leonard Johnson, self

Opponents: None

Opening Statement by Sponsor:

REP. RON DEVLIN, HD 3, TERRY, stated that HB 620 offered a reduction of vehicle registration fees for veterans who have been awarded the Purple Heart and have at least a 50% disability. He brought this bill forward because he felt that there should be a distinction made between 100% disabled veterans (SB 53) and those who won a Purple Heart. He also explained that he did not sign the fiscal note because some of its assumptions were wrong, one of them being that 50% of the veterans who now buy a Purple Heart decal would qualify for this. Lastly, he stated that the group addressed in this bill elected to keep the portion of the registration fee allocated to the veterans' cemetery program at \$10.

Proponents' Testimony:

Jim Jacobson, MT Veterans' Affairs Division, informed the committee that currently, about 1,000 Purple Heart veterans have purchased these plates in Montana; it is unclear, though, how many of them are 50% disabled or more, and would qualify under the provisions of this bill. He went on to say that out of Montana's 100,000 veterans, 10,000 are disabled, 3,000 of them 50% or more; since 1,000 of them have a 100% disability and qualify for the \$5 license plate fee as set forth in SB 53, this bill would address less than 2,000, depending on how many are holding a Purple Heart. He emphasized that Purple Heart recipients are a very distinct group, and he stood in support of this recognition.

C. Hal Manson, American Legion, felt that Montana's Purple Heart veteran deserved the recognition and help this bill afforded them.

Herb Ballou, MOPH, started this project a few years ago because he realized that the Purple Heart veterans did not have the same privileges that other disabled veterans were granted. He was very adamant about this, having fought and gotten wounded in the Battle of the Bulge.

Gen. Emil Eschenberg, self, said that as a member of the Devil's Brigade of 1942/43, he was committed to do what he could to make things easier for Purple Heart veterans because they gave so much during the war, and the debt to them could never be repaid.

John Denherder, self, as a veteran of three wars, implored the committee to support this bill.

Mike Hankins, Associated Vietnam Veterans of America, stated that it was his best estimate that 114 veterans would qualify for the reduced registration under the provisions of this bill, and said they were certainly entitled to the relief this bill granted them.

Leonard Johnson, Marine Corps League, also rose in support of HB 620.

Questions from Committee Members and Responses:

SEN. GLENN ROUSH asked if this bill pertained to light vehicles, one ton or less, only. **Jim Jacobson** said he was not qualified to answer that, and **SEN. ROUSH** redirected the question to the sponsor. **REP. DEVLIN** replied that this bill was drafted prior to SB 53, and felt that either the committee could amend coordinating language into it, or the code commissioner could extend it to one vehicle of any type, as in SB 53, if both bills pass.

Closing by Sponsor:

REP. DEVLIN closed on HB 620, mentioning Amendment #HB 062001.alk, **EXHIBIT(his65a01)**, which deals with the effective date.

EXECUTIVE ACTION ON HB 620

Motion/Vote: **SEN. KITZENBERG** moved that **AMENDMENT #HB062001.ALK** BE ADOPTED. Motion carried 7-0.

Connie Erickson explained that SB 53 said "one vehicle of any type", and not having received a conflict notice, she did not

perceive one but said she could prepare an amendment for the floor debate, if need be.

Motion/Vote: SEN. ROUSH moved that HB 620 BE CONCURRED IN AS AMENDED. Motion carried 7-0. SEN. ROUSH agreed to carry HB 620 on the Senate floor.

EXECUTIVE ACTION ON HB 319

VICE CHAIRMAN RIC HOLDEN asked Connie Erickson to bring the committee up to date on the amendments. Ms. Erickson stated that the bill originally said that if a person sells or trades a car to a dealer, the seller has to pay the back taxes unless the dealer agrees to do so. The Auto Dealers Association requested this to be changed from a requirement to a mere disclosure that back taxes were due. She asserted this would change the original intent of the bill which is prohibited by the Constitution. Legal Counsel Greg Petesch agreed with those concerns, so no amendment was prepared. The sponsor, REP. KATHLEEN GALVIN-HALCRO, purportedly was willing to work with the auto dealers association to draft an amendment which would address their concerns and would fit the title of the bill.

VICE CHAIRMAN HOLDEN decided to have the committee discuss the merits of the bill as presented, and if it passed out of committee, the floor sponsor could take up the issue. SEN. DAN HARRINGTON said he was willing to amend it on the floor.

Motion: SEN. HARRINGTON moved that HB 319 BE CONCURRED IN.

Discussion:

SEN. JERRY O'NEIL stated he favored the concept of the amendment but could not vote for the bill as drafted.

VICE CHAIRMAN HOLDEN called for a roll call vote because of the proxy votes given to him prior to the meeting.

Vote: Motion carried 9-1 with DePratu voting no. SEN. DAN HARRINGTON will carry the bill on the floor.

Note: Tape at end of Tape 1, Side A was turned off because of discussion of unrelated issues. When SEN. SAM KITZENBERG made a motion to take HB 403 off the table, Tape 2, Side A, was started.

EXECUTIVE ACTION ON HB 403

SEN. SAM KITZENBERG moved to take HB 403 from table.

Discussion:

SEN. VICKI COCCHIARELLA went over some points of Amendment #HB040302.ace, **EXHIBIT(his65a02)** which she had requested before today's meeting, saying it increased the number of passengers from two to three; home schooled students would have access to the driver's education programs; parents' insurance would not be affected; and it was made a secondary offense.

SEN. ROUSH voiced concern with the insurance rates because the cars these teens drive belong to their parents, and they would see an increase in their premium if there was a violation. He also opposed the amount of the fines in the bill.

SEN. O'NEIL stated he would favor the bill if it just said that teens were not allowed to drive between midnight and 5 a.m., but the way it was written, it contained too many hoops.

Vote: Motion carried 6-4 with DePratu, Holden, Mohl, and O'Neil voting no, on a roll call vote.

Motion: **SEN. COCCHIARELLA** moved that **AMENDMENT #HB040302.ACE BE ADOPTED.**

Discussion:

SEN. COCCHIARELLA repeated the three main points in the amendment. **SEN. ROUSH** asked what the fine would be for a first offense. **Ms. Erickson** referred to Section (2) of the bill, where it said "no more than \$500". **SEN. ROUSH** asked if this was in statute, and **Ms. Erickson** replied that it will be if this bill is passed. **SEN. O'NEIL** felt we should not be able to tell insurance companies what offenses to base their rates on. **SEN. ROUSH** reminded the committee that similar issues were discussed, such as with the seatbelt and headlight bills, where the assurance was asked for and given that offenses would not affect insurance rates.

Vote: Motion carried 7-1 with O'Neil voting no.

SEN. HARRINGTON felt that a \$500 fine was quite high and suggested to change this to a \$100 fine.

Motion/Vote: **SEN. HARRINGTON** moved that **AN AMENDMENT TO CHANGE THE FINE FROM \$500 TO \$100 BE ADOPTED. Motion carried 8-0.**

Motion: **SEN. HOLDEN** moved that **AMENDMENT #HB040301.ACE BE ADOPTED, EXHIBIT(his65a03).**

Discussion:

VICE CHAIRMAN HOLDEN stated he requested this amendment because he knew from experience that a lot of teen car accidents happen in the noon hour, when kids leave the school premises for lunch.

SEN. HARRINGTON wondered how this could be enforced, with kids leaving the schools at lunch time despite having rules saying they may not. He said he could envision patrol cars sitting in waiting for the violators.

SEN. COCCHIARELLA asked who was to enforce this. **VICE CHAIRMAN HOLDEN** replied that local law enforcement would enforce it. **SEN. COCCHIARELLA** voiced concern regarding the control issue, saying some students were prohibited by the school district to have cars, and by the way the amendment was written, someone else could give them permission to drive, thereby overriding the school board's decision. She added that this amendment needed to include any teen within the twelve month restriction period driving during the school lunch hour, be it home schooled teens, or highschool dropouts, and she wanted the clause "who is attending school" removed. **VICE CHAIRMAN HOLDEN** replied that the local JP makes the determination of who is attending school and who is not, so this request was not necessary. **SEN. COCCHIARELLA** insisted it was not fair to kids attending school, and it should include the other categories as well. **VICE CHAIRMAN HOLDEN** said he could agree to strike "who is attending school" and would reflect that in his motion. **SEN. ROUSH** stated he recognized what the amendment was supposed to do but feared it put an undue burden on local law enforcement and the community, especially in bigger cities. **SEN. O'NEIL** felt that the amendment went right along with the intent of the bill, namely to control kids and their cars.

SEN. HARRINGTON compared this to the non-smoking rule in schools which was both violated and haphazardly enforced. **SEN. DALE BERRY** thought this amendment was not needed because most schools had a rule about not leaving the premises during lunch, so those kids would get arrested anyway. **SEN. HARRINGTON** explained

schools have this rule because of the liability in case of an accident. **SEN. GERALD PEASE** stated that in his home town, if kids leave the school at lunchtime in their vehicles, they are not allowed back with their cars; administrators stand at the entry to the parking lot, enforcing this. **VICE CHAIRMAN HOLDEN** closed on his motion by saying that due to his experience as an accident investigator, if we really had the teens' welfare and safety in mind, we needed to address this lunchtime driving issue, that was where the real danger lay, not in the time between midnight and 5 a.m.

Vote: Motion failed 2-7 with Holden and O'Neil voting aye.

Motion: **SEN. KITZENBERG** moved that **HB 403 BE CONCURRED IN AS AMENDED.**

Discussion:

VICE CHAIRMAN HOLDEN maintained HB 403 was full of problems; it pretended to save lives but did nothing more than try to regulate our lives further. He asserted that this bill would prohibit teens from going out to hunt, and it discriminated against rural students who have to travel some distance to school or school related activities. He questioned the ability of enforcement of the bill's provisions, saying this would be much harder than enforcing the lunch time driving restrictions he had proposed. He touched on the hardships this bill created for the farming communities, and felt that the committee members would have a hard time justifying to their constituents having voted for HB 403 because it was not right for Montana.

SEN. O'NEIL agreed with **VICE CHAIRMAN HOLDEN** and stated he would vote against the bill because it was just more state control over what should be the parents' job.

SEN. COCCHIARELLA disagreed with **VICE CHAIRMAN HOLDEN's** assessment, pointing to the exemptions for school functions and farm kids.

{Tape : 2; Side : B; Approx. Time Counter : 0}

VICE CHAIRMAN HOLDEN called for a roll call vote.

Vote: Motion carried 6-4 with DePratu, Holden, Mohl, and O'Neil voting no. **SEN. FRED THOMAS** had agreed to carry HB 403 on the Senate floor.

SEN. ROUSH asked the chair's permission to have his Page address the committee on his perspective regarding this bill.

Seth Broadster, Conrad, stated that this bill would not affect him because he was 18. He felt that the bill had some good points, but what bothered him was that now, he and his 18 year

old friends would be asked to chauffeur the younger schoolmates as a result of the restrictions, putting a lot more kids in the cars. Also, he could get pulled over for some small mistake because he had a car full of kids and was mistaken as not being old enough. He admitted that there were some problems with underage drivers not having enough experience, making this a difficult issue to decide. In closing, he said he was glad he did not have to vote on the bill.

ADJOURNMENT

Adjournment: 4:25 P.M.

SEN. ARNIE MOHL, Chairman

MARION MOOD, Secretary

AM/MM

EXHIBIT (his65aad)